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6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

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9  
10 UNITED STATES OF AMERICA, )  
11 Plaintiff, ) CASE NO: 2:22-cr-00178-CDS-NJK  
12 vs. )  
13 RAYSHAWN TINNER, ) **UNOPPOSED MOTION TO CONDUCT A**  
14 Defendant. ) **PRE-PLEA PRESENTENCE REPORT**  
15 ) **AND PROPOSED ORDER**  
16 \_\_\_\_\_)

17 COMES NOW, RAYSHAWN TINNER, by and through his attorney of record,  
18 RACHAEL E. STEWART, ESQ., and hereby moves this Honorable Court to order the United  
19 States Department of Parole & Probation to conduct a pre-plea investigation and prepare a pre-  
20 plea presentence report for Mr. Tinner.

21 This request is based upon the pleadings and papers on file herein, the attached  
22 Memorandum of Points and Authorities, and any oral argument the Court may entertain.

23 Dated this 28th day of February, 2023.

24 /s/ Rachael E. Stewart  
25 RACHAEL E. STEWART, ESQ.  
26 Nevada Bar No. 14122  
27 400 S. 4<sup>th</sup> Street, Suite 500  
28 Las Vegas, Nevada 89101  
*Attorney for Rayshawn Tinner*

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. STATEMENT OF FACTS

On August 16, 2022, a grand jury returned an Indictment charging Mr. Tinner as follows: Count 1- Conspiracy to Distribute a Controlled Substance; Count 4- Distribution of a Controlled Substance; Count 5- Distribution of a Controlled Substance; and Count 6- Distribution of a Controlled Substance.

## II. LEGAL ARGUMENT

A presentence investigation may be initiated prior to entry of a guilty plea or nolo contendere or prior to the establishment of guilt. *See*, Fed. R. Crim. P. 32. Moreover, Fed. R. Crim. P. 32(e)(1) provides that “Unless the defendant has consented in writing, the probation officer must not submit a presentence report to the court or disclose its contents to anyone until the defendant has pleaded guilty or nolo contendere, or has been found guilty.”

Here, Mr. Tinner consents in writing to having a pre-plea presentence investigation report prepared in this case. A pre-plea presentence report will assist the parties in determining Mr. Tinner's criminal history score, which will affect the negotiations in this case.

Counsel for Mr. Tinner knows that Mr. Tinner has prior felony and misdemeanor convictions that affect his criminal history score. However, Counsel cannot accurately calculate Mr. Tinner's criminal history score without having a pre-plea presentence investigation report prepared. Additionally, the information in the report will be crucial to determine whether Mr. Tinner qualifies for sentencing enhancements or reductions. Mr. Tinner's criminal history will undoubtedly affect his sentencing exposure and will impact how Mr. Tinner proceeds in this case.

1 For these reasons, a pre-plea presentence report will promote judicial economy and will assist  
2 the parties in resolving this case.

3 Counsel for Mr. Tinner has spoken to Counsel for the Government, and the Government  
4 does not oppose the instant motion.

5 Therefore, Mr. Tinner respectfully requests that this Court issue an Order directing the  
6 United States Department of Parole & Probation to conduct a pre-plea presentence  
7 investigation and prepare the pre-plea presentence report.

8 **III. CONCLUSION**

9 Based on the foregoing, Mr. Tinner respectfully requests that this Court grant his Motion  
10 to Conduct a Pre-Plea Presentence Report. Mr. Tinner further requests this Court order the  
11 United States Department of Parole & Probation to conduct a pre-plea presentence report of Mr.  
12 Tinner.

13 Dated this 28<sup>th</sup> day of February, 2023.

14  
15 */s/ Rachael E. Stewart*  
16 RACHAEL E. STEWART, ESQ.  
17 Nevada Bar No. 14122  
18 400 S. 4<sup>th</sup> Street, Suite 500  
19 Las Vegas, Nevada 89101  
20 *Attorney for Rayshawn Tinner*

**UNITED STATES DISTRICT COURT**

## DISTRICT OF NEVADA

IT IS HEREBY ORDERED that the United States Department of Parole and Probation will prepare a Pre-Plea Presentence Report on Defendant RAYSHAWN TINNER.

DATED March 1, 2023

**United States Magistrate Judge**